

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RYAN SCHELLER, et al.,

Plaintiffs,

v.

NUTANIX, INC., et al.,

Defendants.

Case No. [19-cv-01651-WHO](#)

**ORDER CONSOLIDATING CASES  
AND APPOINTING LEAD PLAINTIFF**

Re: Dkt. No. 17, 19, 22, 26, 32, 35, 37, 47

Having considered the papers filed in support of the Motion of Shimon Hedvat (“Movant”), for Consolidation of the Actions, Appointment as Lead Plaintiff, and Approval of Lead Counsel pursuant to the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), 15 U.S.C. § 78u-4(a)(3)(B), and having considered the other pending motions (Dkt. Nos. 17, 19, 26, 32, 35, 37, 47) and for good cause shown, the Court hereby enters the following Order:

**I. CONSOLIDATION OF RELATED ACTIONS**

1. The above-captioned securities fraud class actions pending in this Judicial District are hereby consolidated for all purposes pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. Any actions that have been filed, or may be filed, which are related and which may be considered herewith, are consolidated under Case No. 5:19-cv-01651-WHO (the “Consolidated Action”), including 3:19-cv-02442-RS; 3:19-cv-02744-RS; 3:19-cv-02781-SI.

2. A Master File is hereby established for the consolidated proceedings in the Consolidated Action. The docket number for the Master File shall be Master File No. 5:19-cv-01651-WHO. The original of this Order shall be filed by the Clerk in the Master File. The Clerk shall mail a copy of this Order to counsel of record in each of the above-captioned actions.

3. Every pleading filed in the Consolidated Action shall bear the following caption:

1 IN NUTANIX, INC. SECURITIES LITIGATION; Master File No. 5:19-cv-01651-WHO

2 **II. APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL**

3 4. Movant has asked this Court to be appointed as Lead Plaintiff in the Consolidated  
4 Action and to approve the counsel he retained to be Lead Counsel.

5 5. Having considered the provisions of Section 21D(a)(3)(B) of the PSLRA, 15  
6 U.S.C. § 78u-4(a)(3)(B), the Court hereby determines that Movant is the most adequate lead  
7 plaintiff and satisfies the requirements of the PSLRA. The Court hereby appoints Movant as  
8 Lead Plaintiff to represent the interests of the class.

9 6. Pursuant to Section 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-  
10 4(a)(3)(B)(v), Movant has selected and retained the law firm Levi & Korsinsky, LLP to serve as  
11 Lead Counsel. The Court approves Movant's selection of Counsel for the Actions.

12 7. Lead Counsel shall have the following responsibilities and duties, to be carried  
13 out either personally or through counsel whom Lead Counsel shall designate:

- 14 a. to coordinate the briefing and argument of any and all motions;
- 15 b. to coordinate the conduct of any and all discovery proceedings;
- 16 c. to coordinate the examination of any and all witnesses in depositions;
- 17 d. to coordinate the selection of counsel to act as spokesperson at all pretrial  
18 conferences;
- 19 e. to call meetings of the plaintiffs' counsel as they deem necessary and  
20 appropriate from time to time;
- 21 f. to coordinate all settlement negotiations with counsel for defendants;
- 22 g. to coordinate and direct the pretrial discovery proceedings and the  
23 preparation for trial and the trial of this matter, and to delegate work responsibilities to  
24 selected counsel as may be required;
- 25 h. to coordinate the preparation and filings of all pleadings; and
- 26 i. to supervise all other matters concerning the prosecution or resolution of  
27 the claims asserted in the Action.

28 8. No motion, discovery request, or other pretrial proceedings shall be initiated or

1 filed by any plaintiffs without the approval of Lead Counsel, so as to prevent duplicative pleadings  
2 or discovery by plaintiffs. No settlement negotiations shall be conducted without the approval of  
3 the Lead Counsel.

4 9. Service upon any plaintiff of all pleadings, motions, or other papers in the  
5 Action, except those specifically addressed to a plaintiff other than Lead Plaintiff, shall be  
6 completed upon service of Lead Counsel.

7 10. Lead Counsel shall be the contact between plaintiffs' counsel and defendants'  
8 counsel, as well as the spokespersons for all plaintiffs' counsel, and shall direct and coordinate  
9 the activities of plaintiffs' counsel. Lead Counsel shall be the contact between the Court and  
10 plaintiffs and their counsel.

11 **III. NEWLY FILED OR TRANSFERRED ACTIONS**

12 11. When a case that arises out of the subject matter of the Actions is hereinafter  
13 filed in this Court or transferred from another Court, the Clerk of this Court shall:

- 14 a. file a copy of this Order in the separate file for such action;  
15 b. deliver a copy of this Order to the attorneys for the plaintiff(s) in the  
16 newly filed or transferred case and to any new defendant(s) in the newly filed or  
17 transferred case; and  
18 c. make the appropriate entry on the docket for this action.

19 12. Each new case that arises out of the subject matter of the action that is filed in  
20 this Court or transferred to this Court shall be consolidated with the Actions and this Order shall  
21 apply thereto, unless a party objecting to this Order or any provision of this Order shall, within  
22 ten (10) days after the date upon which a copy of this Order is served on counsel for such party,  
23 file an application for relief from this Order or any provision herein and this Court deems it  
24 appropriate to grant such application.

25 13. During the pendency of this litigation, or until further order of this Court, the  
26 parties shall take reasonable steps to preserve all documents within their possession, custody or  
27 control, including computer-generated and stored information and materials such as  
28 computerized data and electronic mail, containing information that is relevant to or which may

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

lead to the discovery of information relevant to the subject matter of the pending litigation.

**IT IS SO ORDERED.**

Dated: July 10, 2019

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

William H. Orrick  
United States District Judge